

UNITED STATES BANKRUPTCY COURT SOUTHERN DISTRICT OF NEW YORK	
Caption in Compliance with D.N.J. LBR 9004-2(c) WASSERMAN, JURISTA & STOLZ, P.C. 225 Millburn Avenue - Suite 207 P.O. Box 1029 Millburn, New Jersey 07041 Phone: (973) 467-2700 Fax: (973) 467-8126 Counsel for Jeffrey Vanderbeek STEVEN Z. JURISTA(SJ-5315)	
In Re:	Case No.: 08-13555(JMP)
LEHMAN BROTHERS HOLDINGS, INC., <i>et al.</i>,	Chapter: 11
Debtors.	

**OBJECTION OF JEFFREY VANDERBEEK TO MOTION OF PLAN
ADMINISTRATOR TO MODIFY CLAIM**

The objection of Jeffrey Vanderbeek, holding claim number 16478 in the above matter, submitted through his counsel, Wasserman, Jurista & Stolz, P.C., in response to the Omnibus Objection 316 of the Plan Administrator, seeking to modify and allow the claim of Jeffrey Vanderbeek, respectfully states as follows:

1. Claimant Jeffrey Vanderbeek submitted a claim on or about September 8, 2009 in the total amount of \$61,133,743, which has been docketed as claim number 16478.
2. The claims submitted by Jeffrey Vanderbeek are pursuant to a Separation from Employment Agreement entered into with Lehman Brothers, Inc. and its affiliated companies (the "Agreement") on or about March 1, 2004.
3. The claim as submitted had five separate components, one of which was a claim, pursuant to paragraph 5 of the Agreement, for supplemental retirement plan benefits ("SERP"). The Plan Administrator seeks to expunge the components of the Vanderbeek claim other than the

SERP payments. Vanderbeek does not object to that portion of the motion which seeks to expunge the components of his claim other than the SERP payments.

4. With regard to the SERP payments, Vanderbeek disputes the calculations with regard thereto. The SERP payments obligated the pre-petition debtor to pay Vanderbeek 25 annual payments of \$700,000.00 commencing at age 60, for a total payment of \$17,500,000.00 (25 x \$700,000).

5. Under the terms of the SERP, Vanderbeek is entitled to benefits that equal 25 annual payments of up to \$700,000 multiplied by the ratio of Vanderbeek's years of service at the date of termination or retirement to the projected years of service Vanderbeek would have had at age 60. Vanderbeek's date of hire was February 4, 1984, and his date of termination was June 19, 2004. Vanderbeek had 20.42 years of service, and his projected years of service equal 33.5. Accordingly, the ratio for purchases of calculations, would be 20.42 divided by 33.5, or .60955. This ratio multiplied by 25 years, and then multiplied again by \$700,000.00 per year, equates to \$10,667,164.00 (the "Total SERP Payment").

6. As the payment was to be paid over the course of 25 years commencing in the future, the claim must be discounted, at present value, for purposes of allowance of said claim as an unsecured claim.

7. Based upon discussions with counsel for the plan administrator, said plan administrator used an interest rate of 7.09% for purposes of discounting the above claims to present value. Based upon those calculations, the plan administrator has present valued the claim at \$3,203,232.00, and is prepared to allow the claim in said amount.

8. Vanderbeek respectfully submits that the use of the 7.09 interest rate is inappropriate and excessive. That interest rate was based on the baseline for calculating appropriate interest

rates, i.e. treasury rates, plus a large premium to reflect credit risk. Vanderbeek submits that the appropriate interest rate that should be utilized for purposes of discounting the Total SERP Payment is 2.5%, or 25 year treasury rates, reflecting the fact that the premium for credit risk is no longer relevant since the entity is insolvent. Based upon that interest rate, the discounted present value of the SERP claim is \$5,753,767.88.

9. Vanderbeek respectfully submits that the allowed unsecured claim of Jeffrey Vanderbeek, claim number 16478, should be allowed in the amount of \$5,753,767.88.

10 For the foregoing reasons, Vanderbeek respectfully objects to the relief requested by the Plan Administrator in the 316 omnibus objection to claims with regard to Jeffrey Vanderbeek, and seeks an Order allowing his claim at \$5,753,767.88 .

WASSERMAN, JURISTA & STOLZ, P.C.
Counsel to Jeffrey Vanderbeek

By: /s/ Steven Z. Jurista
STEVEN Z. JURISTA

DATED: July 11, 2012